

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

BILL KILLINGSWORTH,  
Applicant,

v.

CIVIL NO. 09-845 JB/WDS

George Tapia, et al.,  
Respondent.

**ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL**

THIS MATTER comes before the court on Petitioner's Motion For Appointment of Counsel filed July 21, 2010 (Doc. 28). 28 U.S.C. §1915(e)(1) provides that the court may request an attorney to represent any person unable to afford counsel. The Court has broad discretion to appoint counsel for indigents under 28 U.S.C. § 1915(e), and its denial of counsel will not be overturned unless it would result in fundamental unfairness impinging on due process rights. *Long v. Shillinger*, 927 F.2d 525, 527 (10th Cir. 1991). In determining whether to appoint counsel, the district court should consider a variety of factors, including the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims. *Id.*

The Court has considered the factors noted above and sees no basis for the appointment of counsel at this time, especially in light of the fact that on July 27, 2010, Petitioner filed a Notice of Appeal from the final judgment entered in this case. (Doc. 29). Accordingly, the Court orders Applicant's Motion For Appointment of Counsel (Document #10) denied without prejudice.

**IT IS SO ORDERED.**

  
**W. DANIEL SCHNEIDER**  
United States Magistrate Judge